

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Western District of Texas01/29/13
Clerk, U. S. District Court
Western District of TexasBy [Signature]
DeputyUnited States of America
v.
ADAM NUNCIO, III,
JOE CHAVEZ GARCIA, JR.
BERNABE LOVE MALDONADO

Case No. SA-13-77M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 28, 2013 in the county of Bexar in the
Western District of Texas, the defendant(s) violated:*Code Section*21 USC 846, 841(a)(1), & 841(b)(1)
(B)*Offense Description*Conspiracy to Possess and Possession with Intent to Distribute 500 grams or
more of a mixture or substance containing a detectable quantity of cocaine.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.[Signature]
Complainant's signature
TFO KENDAL GERBAUER, DEA
Printed name and title

Sworn to before me and signed in my presence.

Date: 01/29/2013[Signature]
Judge's signature
JOHN W. PRIMOMO, U.S. Magistrate Judge
Printed name and titleCity and state: San Antonio, TexasMinimum mandatory 5 years up to 40 years imprisonment
Maximum fine of up to \$5,000,000
At least 4 years of supervised release
\$100 Assessment to the Victims of Crime

ATTACHMENT "A"

AFFIDAVIT IN SUPPORT OF COMPLAINT AND ARREST WARRANT

KENDAL GEBAUER, BEING DULY SWORN, DEPOSES AND SAYS:

I am a Task Force Officer (TFO) with the Drug Enforcement Administration (DEA), currently assigned to the San Antonio District Office in San Antonio, Texas. In addition to the basic law enforcement training I have also received advanced training regarding the controlled substance laws of the State of Texas and the United States. I have in the past been the affiant on affidavits in support of arrest warrants and complaints in federal courts. On January 17, 2013, DEA TFO Joey Sepulveda and a DEA Confidential Source (CS), acting in an undercover capacity, met with Adam NUNCIO, III in a restaurant parking lot located at 11727 Bandera Rd, San Antonio, Texas. TFO Sepulveda negotiated the purchase of five (5) kilos of cocaine for the purchase price of \$33,500.00 per kilo. TFO Sepulveda and NUNCIO agreed to make the cocaine transaction on January 18, 2013, in San Antonio, Texas.

On January 18, 2013, TFO Sepulveda contacted NUNCIO via telephonic calls and texts and told NUNCIO that he was ready to purchase the five (5) kilos of cocaine. NUNCIO told TFO Sepulveda that he NUNCIO would be ready at 1:00 P.M. TFO Sepulveda attempted to contact NUNCIO via telephonic calls and texts and was unable to contact NUNCIO. At approximately 3:00 P.M. NUNCIO called TFO Sepulveda and stated that his driver had been arrested and he would be unable to make the transaction today.

On January 27, 2013, at approximately 12:00 A.M. NUNCIO left a

recorded message, on TFO Sepulveda's cellular telephone, stating that he had a new cocaine supplier and that he was ready to supply the five (5) kilos of cocaine TFO Sepulveda wanted to purchase. NUNCIO stated that he wanted to make the transaction on Sunday January 27, 2013, and only wanted to sell one (1) kilo of cocaine on the first transaction they were making together. At approximately 1:44 P.M. TFO Sepulveda texted NUNCIO and told him the earliest that he was prepared to purchase the cocaine was on Monday January 28, 2013. At approximately 4:00 p.m., TFO Sepulveda called NUNCIO and told NUNCIO that is not worth the expense to travel to San Antonio, Texas to purchase just one (1) kilo of cocaine. NUNCIO then stated that he arranged to get all Five (5) kilos of cocaine from his supplier. TFO Sepulveda and NUNCIO agreed the cocaine transaction of January 28, 2013 in San Antonio, Texas.

On January 28, 2013, at approximately 1:28 P.M., TFO Sepulveda sent a text message to NUNCIO stating that he was in San Antonio and ready to make the purchase. NUNCIO stated that he was on the way to his supplier to obtain the cocaine. At approximately 2:36 P.M., TFO Sepulveda texted NUNCIO that he was at the Gold's Gym parking lot on Crossroads in San Antonio, Texas.

At approximately 4:10 P.M., TFO Gebauer, who was conducting surveillance in the Gold's Gym parking lot, observed NUNCIO pull into the parking lot in a 2010 Dodge Charger Texas registration CV2-C387. Nuncio then parked in the Gold's Gym parking lot. TFO Gebauer observed that NUNCIO was followed by a 1998 Volvo, Texas registration CF8-Z296 that parked in the Gold's Gym parking lot next to NUNCIO. An individual later identified

as Joe GARCIA Jr was the driver of the 1998 Volvo and an individual later identified as Bernabe Love MALDONADO was in the front passenger seat. TFO Gebauer observed NUNCIO exit his vehicle and walk to the side of the 1998 Volvo and appear to be in conversation with the driver of the Volvo (GARCIA). TFO Gebauer then observed NUNCIO talking on his cellular telephone at which time he walked to the passenger side of the 1998 VOLVO. After NUNCIO completed his phone call he appeared to again have a conversation with the occupants of the 1998 Volvo. TFO Gebauer then observed NUNCIO open the rear passenger door of the 1998 Volvo and remove a large white shopping type bag from the 1998 Volvo and place the bag in the 2010 Dodge Charger. TFO Gebauer then observed NUNCIO get into the Dodge Charger and drive to the east side of the Gold's Gym and park.

TFO Sepulveda received a telephone call from NUNCIO while NUNCIO was under surveillance on the parking lot. NUNCIO told TFO Sepulveda to go the parking area on the left side of the Gold's Gym to meet him. TFO Sepulveda then drove to that area in the parking lot and observed NUNCIO setting in the 2010 Dodge Charger. TFO Sepulveda parked in front of the Dodge Charger. NUNCIO exited his vehicle and TFO Sepulveda met with NUNCIO by the driver side of the Dodge Charger. TFO Sepulveda stated to NUNCIO "let's get this done, because I have to be on the road". NUNCIO directed TFO Sepulveda to the rear driver side door of the Dodge Charger, and stated, "It is all in there". TFO Sepulveda open rear driver side door of the charged and observed a white plastic bag containing several black electrical taped wrapped bricks. Based upon training and experience TFO Sepulveda knew that narcotics were frequently package this way. At that

time TFO Sepulveda gave a prearranged arrest signal, and NUNCIO was arrested.

While the above was occurring TFO Kendal Gebauer observed the 1998 Volvo pull forward approximately six feet in its parking space in what appeared to be an effort to observe NUNCIO conducting the transaction. After the arrest signal was given Joe GARCIA, Jr. (driver of the 1998 Volvo) and Bernabe Love MALDONADO (passenger) were taken into custody. After the arrest all subjects were advised of their rights and NUNCIO agreed to answer questions. NUNCIO stated that he had recently met GARCIA and MALDONADO, and that they had agreed to supply the five kilograms of cocaine. According to NUNCIO he had met with them earlier at a Shell gas station in area, and that they had followed him to the Gold's Gym, and that he NUNCIO had removed the cocaine from the back seat area of their vehicle.

Agents found a total of five taped wrapped bundles in the white bag from NUNCIO's Dodge Charger. The items were field tested and tested positive for cocaine.

Affiant further sayeth not.


S/A KENDAL GEBAUER, DEA

Subscribed and sworn to on this the 29th day of January, 2013.


UNITED STATES MAGISTRATE JUDGE
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